IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Crl.MC.No. 2278 of 2007()

CMP.2507/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA
CRIME NO.288 OF 2005 OF CHENGAMANAD POLICE STATION

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PETITIONER: CLAIM PETITIONER:

SIVAKURUNATHU THIRUSOTHY,
W/O. CHANDRA LINGAM NATARAJAH, AUBER VILLIERS,
93300, EDAVARED VILLIANT, FRANCE-52 NOW RESIDING
AT C/O. E.ANANTHAN, NO.76/1 JAHIR HUSSAIN STREET,
M.G.R. NAGAR, CHENNAI-600 078.

BY ADV. SRI.SIMON THOMAS
SRI.P.SHAIJAN JOSEPH

RESPONDENTS: COMPLAINANT:

THE DETECTIVE INSPECTOR, CBCID,
SIG-II, KALOOR, KOCHI, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2278 of 2007

Dated this the 8th day of August, 2007

O R D E R

The petitioner is not an accused in the case. Her husband is the 2nd accused in Crime No.288 of 2005 of Chengamanad Police Station. The husband of the petitioner (2nd accused) along with another woman attempted to travel out of India making use of the passport of the petitioner. Case has been registered against the said woman, the 1st accused and the husband of the petitioner, the 2nd accused. Investigation is in progress. Final report has not been filed so far. The case was registered as early as in 2005.

2. The petitioner made an application under Section 451 Cr.P.C to release her passport to her. That prayer was rejected by the learned Magistrate by Annexure-1 order. The learned counsel for the petitioner submits that the passport of her husband has already been released to him by order of the learned Magistrate. There is absolutely no justification in not releasing the passport of the petitioner to her. The petitioner is a Srilankan national. She holds a French refugee passport. The passport has not in any way been tampered with. According to the petitioner, she is in no way responsible for the removal of the passport by her husband and his attempt to use the

same to take another woman out of India. Admittedly the petitioner has not been arrayed as an accused so far.

3. The passport will certainly be required as a piece of evidence in the trial when the case is ultimately taken up. For the said purpose alone, I am not satisfied that the petitioner should be compelled to remain in India. The petitioner undertakes to produce the passport on any appropriate conditions as and when directed. Taking all the relevant circumstances into account, including the fact that the petitioner is not an accused and the passport of the petitioner 's husband has been released to him and the prosecution has raised no objection against the same, I am satisfied that subject to appropriate conditions, the passport of the petitioner can be directed to be released to her. Insisting on the continued retention of the passport to facilitate continuation of the petitioner in India which would in turn facilitate the continuation of her husband in India does not at all appeal to me to be a proper course.

4. In the result, this Crl.M.C is allowed. The order dated 22.06.07 in Crl.M.P.No.2507 of 2007 is set aside. The passport of the petitioner shall be released to the petitioner on the following terms and conditions.

i) A duly certified coloured photostat copy of the passport shall be retained in court;

ii) The petitioner shall execute a bond for Rs.2 lakhs with two solvent sureties each for the like sum undertaking to produce the passport as and when directed by the court within a period of 30 days. The learned Magistrate shall scrupulously insist that the sureties offered are sufficient and solvent.

iii) The petitioner shall furnish to the learned Magistrate the address of the person in India to whom intimation must be given to require the petitioner to produce her passport before the learned Magistrate.

(R.BASANT, JUDGE)

rtr/-